

MDR Tracking Number: M5-05-1681-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 2-11-05.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The ultrasound therapy, massage therapy, therapeutic exercises, office visit from 9-20-04 through 11-16-04 were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

This Finding and Decision is hereby issued this 22nd day of April 2005.

Medical Dispute Resolution Officer
Medical Review Division

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the Respondent to pay the unpaid medical fees totaling \$4,708.49 from 9-20-04 through 11-16-04 outlined above as follows:

- In accordance with Medicare program reimbursement methodologies for dates of service on or after August 1, 2003 per Commission Rule 134.202 (c);
- plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this Order.

This Order is hereby issued this 22nd day of April 2005.

Manager
Medical Necessity Team
Medical Dispute Resolution
Medical Review Division

Enclosure: IRO decision

April 15, 2005

Texas Workers Compensation Commission
MS48
7551 Metro Center Drive, Suite 100
Austin, Texas 78744-1609

NOTICE OF INDEPENDENT REVIEW DECISION

RE: MDR Tracking #: M5-05-1681-01
TWCC #:
Injured Employee:
Requestor: South Coast Spine and Rehabilitation, P.A.
Respondent: Harris & Harris
MAXIMUS Case #: TW05-0051

MAXIMUS has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The MAXIMUS IRO Certificate Number is 5348. Texas Worker's Compensation Commission (TWCC) Rule §133.308 allows for a claimant or provider to request an independent review of a Carrier's adverse medical necessity determination. TWCC assigned the above-reference case to MAXIMUS for independent review in accordance with this Rule.

MAXIMUS has performed an independent review of the proposed care to determine whether or not the adverse determination was appropriate. Relevant medical records, documentation provided by the parties referenced above and other documentation and written information submitted regarding this appeal was reviewed during the performance of this independent review.

This case was reviewed by a practicing chiropractor on the MAXIMUS external review panel who is familiar with the condition and treatment options at issue in this appeal. The reviewer has met the requirements for the ADL of TWCC or has been approved as an exception to the ADL requirement. The MAXIMUS chiropractor reviewer signed a statement certifying that no known conflicts of interest exist between this chiropractor and any of the treating physicians or providers or any of the physicians or providers who reviewed this case for a determination prior to the referral to MAXIMUS for independent review. In addition, the MAXIMUS chiropractor reviewer certified that the review was performed without bias for or against any party in this case.

Clinical History

This case concerns a 61 year-old male who sustained a work related injury on _____. The patient reported that while at work he injured his right shoulder when he attempted to separate two students involved in an altercation. Treatment for this patient's condition has included electrical stimulation and injections. On 3/9/04 the patient was reevaluated by a chiropractor. The diagnosis for this patient at that time included possible rotator cuff tear. The patient began treatment that consisted of aquatic therapy and massage. On 4/20/04 the patient underwent an MRI of the right shoulder that showed large tears of the infraspinatus and the teres minor with smaller tear of the supraspinatus, and AC joint osteoarthritis. On 7/6/04 the patient underwent right shoulder surgery.

Requested Services

97035-ultrasound therapy, 97124 massage therapy, 97110 therapeutic exercises, 99213 office/outpatient visit, est., from 9/20/04 through 11/16/04.

Documents and/or information used by the reviewer to reach a decision:

Documents Submitted by Requestor:

1. Initial Exam 3/9/04
2. Interim Exam 3/26/04
3. Interim Exam 7/9/04
4. Re-evaluation Notes 8/17/04-11/16/04
5. MRI 4/20/04
6. Office Visit notes 9/20/04-11/11/04

Documents Submitted by Respondent:

1. Evaluations 6/23/04 & 1/19/05

Decision

The Carrier's denial of authorization for the requested services is overturned.

Rationale/Basis for Decision

The MAXIMUS chiropractor reviewer noted that this case concerns a 61 year-old male who sustained a work related injury to his right shoulder on _____. The MAXIMUS chiropractor reviewer also noted that treatment for this patient's condition has included electrical stimulation and injections and that on 7/6/04 the patient underwent right shoulder surgery. The MAXIMUS chiropractor further noted that the patient was also treated with ultrasound therapy, massage therapy and therapeutic exercises after surgery. The MAXIMUS chiropractor reviewer indicated that the documentation provided demonstrated that this patient responded well to the treatment rendered from 9/20/04 through 11/16/04. Therefore, the MAXIMUS chiropractor consultant concluded that the 97035-ultrasound therapy, 97124-massage therapy, 97110-therapeutic exercises, 99213-office/outpatient visit, est., from 9/20/04 through 11/16/04 were medically necessary to treat this patients condition.

Sincerely,
MAXIMUS

Elizabeth McDonald
State Appeals Department